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11 THE LARYNGEAL MASK COMPANY LTD.  
and LMA NORTH AMERICA, INC.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

1 THE LARYNGEAL MASK COMPANY  
2 LTD. and LMA NORTH AMERICA, INC., ) Civil Action No. 07 CV 1988 DMS (NLS)  
3 Plaintiffs, )  
4 v. )  
5 AMBU A/S, AMBU INC., and AMBU )  
6 LTD., )  
7 Defendants. )  
8 Honorable Nita L. Stormes  
9  
10 AMBU A/S, AMBU INC., and AMBU LTD., )  
11 Counterclaimants, )  
12 v. )  
13 THE LARYNGEAL MASK COMPANY )  
14 LTD. and LMA NORTH AMERICA, INC., )  
15 Counter-Defendants. )

1           Plaintiffs The Laryngeal Mask Company Ltd. and LMA North America, Inc.  
2 (collectively “LMA”) and Defendants Ambu A/S, Ambu Inc., and Ambu Ltd. (collectively  
3 “Ambu” and, together with LMA, the “Parties”) respectfully move for an order permitting the  
4 Parties to file motions relating to fact discovery on July 13, 2009. The Parties state the  
5 following in support of this motion:

6           1.       The Court had set June 12, 2009 as the deadline for completion of fact discovery.  
7 (Doc. #180 at 2.) In that order, the Court also stated that “[a]ll other deadlines set by the  
8 Scheduling Order shall remain unaffected.” (*Id.*)

9           2.       In the original Scheduling Order, the Court had directed that “[a]ll disputes  
10 concerning discovery shall be brought to the attention of the Magistrate Judge no later than  
11 thirty (30) days following the date upon which the event giving rise to the discovery dispute  
12 occurred.” (Doc. #58.)

13           3.       Both Parties had understood and interpreted these Court orders to mean that  
14 disputes concerning fact discovery must be brought to the attention of the Court within 30 days  
15 following the completion of fact discovery, *i.e.*, July 13, 2009. The Parties both operated under  
16 that assumption in preparing their motions, and the Parties expressly made note of the July 13,  
17 2009 deadline to each other at their July 8, 2009 meet and confer.

18           4.       The Parties operated under that impression until July 13, 2009, when both Parties  
19 contacted the Clerk of the Court to obtain hearing dates for their motions, and were told by the  
20 Clerk that these motions arguably were untimely in light of the fact discovery cut-off deadline  
21 of June 12, 2009.

22           5.       To the extent June 12, 2009 was the deadline to file motion relating to fact  
23 discovery, the Parties respectfully request that the Court permit both Parties to file such motions  
24 late on July 13, 2009. To the extent that the 30 day period from June 12 fell on Sunday, July 12,  
25 the Parties likewise respectfully request that the Court permit both Parties to file such motions  
26 on July 13, 2009.

27           ///

28           ///

6. Both Parties agree that neither Party will be prejudiced by the filing of such motions on July 13, 2009.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 13, 2009

By: s/Frederick S. Berretta

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FENWICK & WEST, LLP

Dated: July 13, 2009

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